

EXHIBIT D –  
DECLARATION OF  
LINDA FOX,  
PHARMACY  
DIRECTOR OF THE  
NEVADA  
DEPARTMENT OF  
CORRECTIONS

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Minev, Green and Fox (NDOC Defendants)*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

ZANE M. FLOYD,

Plaintiff,

v.

CHARLES DANIELS, DIRECTOR,  
NEVADA DEPARTMENT OF  
CORRECTIONS, ET AL.,

Defendants.

Case No. 3:21-cv-00176-RFB-CLB

**DECLARATION OF LINDA FOX,  
PHARMACY DIRECTOR OF THE  
NEVADA DEPARTMENT OF  
CORRECTIONS**

I, Linda Fox, hereby declare based on personal knowledge and/or information and belief, that the following assertions are true.

1. I have been a registered pharmacist with the State of Nevada since 1990.
2. I have worked as a pharmacist for the Nevada Department of Corrections (NDOC) since 2004.
3. I currently am the Pharmacy Director for the NDOC, a position I have held since 2010. This position is also occasionally referred to Chief of Pharmacy or Pharmacy Director. I am responsible for the administrative and day-to-day functions of pharmaceutical services for the NDOC. This position requires me to do many things, including ensuring that medications are ordered, obtained, and properly stored and secured until they are utilized for their intended use.

1           4. Due to sensitive and confidential issues associated with lethal injection, my  
2 job duties, under both former Director James Dzurenda and current Director Charles  
3 Daniels, has included ordering and purchasing medications that, in the discretion of either  
4 Director, would be appropriate for use in any legally scheduled and authorized execution.

5           5. As part of those duties, Director Dzurenda authorized me to purchase  
6 medications intended to be used in the scheduled execution of Scott Dozier (Dozier  
7 Execution). The protocol authorized by Director Dzurenda for the Dozier Execution first  
8 called for the use of diazepam, fentanyl, and cisatracurium. Later, after the diazepam in  
9 the possession of the NDOC expired, and it became unavailable for purchase to the NDOC,  
10 the protocol substituted midazolam in place of diazepam. As Pharmacy Director, I was  
11 asked to order each of these medications using the Cardinal Health ordering portal, as this  
12 is the way NDOC ordinarily purchases its medications.

13           6. I was able to purchase such medications through the Cardinal Health order  
14 portal.

15           7. Director Dzurenda later asked me to purchase ketamine and potassium  
16 chloride if they were available. I was able to do so through the Cardinal Health order portal  
17 in the same manner the NDOC ordinarily purchases its medications. To the extent those  
18 medications have not expired, they—along with fentanyl previously purchased at the  
19 direction of Director Dzurenda—are still in the possession of the NDOC.

20           8. Director Daniels also authorized me to purchase, if available through the  
21 NDOC's ordinary transactional efforts, additional supplies of fentanyl, ketamine,  
22 potassium chloride, alfentanil, cisatracurium, and potassium acetate.

23           9. I was able to purchase alfentanil, ketamine, cisatracurium and potassium  
24 acetate. However, neither fentanyl nor potassium chloride were an eligible product for the  
25 NDOC to purchase.

26           10. To help individuals reviewing this document understand the Cardinal Health  
27 order portal, I have attached them to this Declaration as "**Attachment 1**". These  
28 attachments are screenshots of my computer open to the order portal for alfentanil,

1 ketamine, cisatracurium and potassium acetate, as each of those drugs were recently  
2 purchased by me at the direction of Director Daniels. The screenshots indicate that each of  
3 those medications are available for purchase by the NDOC as of June 19, 2021.

4 11. I have been informed that Mr. Floyd has requested the NDOC use different  
5 drugs, specifically, either pentobarbital or sodium thiopental, to carry out his execution.  
6 While I take no position as to whether those drugs should be used in the NDOC Protocol,  
7 as that is not my decision to make, I can attest that neither drug is readily available for  
8 purchase to the NDOC.

9 12. The inability to purchase pentobarbital or sodium thiopental by the NDOC  
10 has been true for several years. This is personally known to me as I recall being asked if  
11 they were possible for purchase during the Dozier Execution. They were not.

12 13. I also recall that at no time since Dozier Execution have these medications  
13 been available for purchase to the NDOC. If they had been available, knowing they are  
14 used for lethal executions by other states, I would have informed either Director Dzurenda  
15 or Director Daniels that they were available should they wish for me to purchase them.

16 14. The inability to purchase these two medications is also widely known among  
17 pharmacies associated with Departments of Corrections in “death-penalty states.”  
18 Therefore, the fact that the NDOC is unable to purchase either pentobarbital or sodium  
19 thiopental is not surprise to me nor unique to the NDOC.

20 15. As further evidence of the inability to purchase either pentobarbital or sodium  
21 thiopental, I have provided as “**Attachment 2**” screenshots from the same Cardinal Health  
22 order portal establishing the eligibility for purchase of ketamine, cisatracurium, and  
23 potassium acetate. However, instead of permitting sodium thiopental or pentobarbital to  
24 be purchased, the portal clearly notes, when searched, that the “product[] is ineligible to  
25 order.”

26 16. I therefore attest that the NDOC does not have the means to purchase either  
27 pentobarbital or sodium thiopental through ordinary business transactions, as those  
28

1 transactions would be to purchase medications through Cardinal Health. As noted above,  
2 the medications are listed as ineligible for purchase the NDOC.

3 17. Again, this is not a surprising circumstance as the inability for Departments  
4 of Corrections in “death-penalty states” to purchase either pentobarbital or sodium  
5 thiopental is widely known by pharmacists employed by those Departments of Corrections.

6 18. Indeed, even if I was authorized to try to purchase pentobarbital or sodium  
7 thiopental from a source other than our ordinary pharmaceutical provider, Cardinal  
8 Health, I do not believe such a purchase would be possible. This opinion is based on my  
9 understanding of the industry and how immensely difficult purchasing these drugs for use  
10 by Departments of Corrections in “death-penalty” states is. In other words, I can attest  
11 these medications would not be available for purchase even if Director Daniels authorized  
12 me to take unusual or extraordinary efforts to purchases these medications.

13 19. I declare under penalty of perjury pursuant to 28 U.S.C. section 1746 that the  
14 foregoing is true and correct.

15 EXECUTED this 21<sup>st</sup> day of June, 2021.


16 /s/ Linda Fox\*

17 Chief Linda Fox  
18 Pharmacy Director,  
Nevada Department of Corrections

19 \* Pursuant to Temporary General Order 2020-05, entered by Chief Judge Du on March 30,  
20 2020, [https://www.nvd.uscourts.gov/wp-content/uploads/2020/03/GO-2020-05-re-COVID-](https://www.nvd.uscourts.gov/wp-content/uploads/2020/03/GO-2020-05-re-COVID-19-Remote-Hearings.pdf)  
21 [19-Remote-Hearings.pdf](https://www.nvd.uscourts.gov/wp-content/uploads/2021/03/Order-Extending-GO-2020-05.pdf), and as extended on March 29, 2021, [https://www](https://www.nvd.uscourts.gov/wp-content/uploads/2021/03/Order-Extending-GO-2020-05.pdf)  
22 [.nvd.uscourts.gov/wp-content/uploads/2021/03/Order-Extending-GO-2020-05.pdf](https://www.nvd.uscourts.gov/wp-content/uploads/2021/03/Order-Extending-GO-2020-05.pdf), Chief  
23 Fox has authorized counsel to affix her electronic signature to this Declaration. Should  
24 counsel have misconstrued these Temporary Orders in any way, or if the Court wishes to  
25 have a hand-signed copy of this Declaration, one will be provided to the Court upon request.  
26  
27  
28

# ATTACHMENT 1 – SCREENSHOTS




**CardinalHealth**
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Product Name, Num or Mfr

**Go**☐ Custom Field Search☒ Eligible ☐ On Contract[View All Filters](#)

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Display: **Table** | Images | Full Screen





Home :: Search Results

## Search Results

You searched for **ALFENTANIL**

Total results 2

Columns  Print  Export **.xls**

ALT	QTY	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST
	<input type="text" value="0"/>	 22	4290292	17478-0067-02	ALFENTANIL HCL	500MCG/ML	AMPS	10X2 ML	\$65.67
	<input type="text" value="0"/>		4349825	17478-0067-05	ALFENTANIL HCL	500MCG/ML	AMPS	10X5 ML	\$113.51

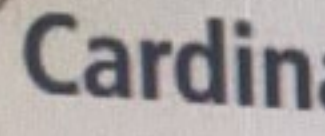
**My Account**[Log Out](#)[Your Cart](#)**Contacts**

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


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## Search Results

You searched for **potassium acetate**

Total results 1

Display:  **Table** |  Images |  Full Screen


Columns





Print



Export

.xls 

ALT	QTY	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST	COM
	<input type="text" value="0"/>	 5	5212246	51754-2001-04	POTASSIUM ACETATE	2MEQ/ML	SDV	25X20 ML	\$117.78	GOVA

No Substitutes or Alternatives were found for the product

Cardinal Health Product Alternatives or those designated as "Substitute": Therapeutic equivalency or bioequivalency is not implied and some alternative groupings may be

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Home :: Search Results

## Search Results

You searched for **NIMBEX**

Total results 3

Columns Print Export .xls

ALT	QTY	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST	CONTRACT	NOTES
	<input type="text" value="0"/>		3011335	00074-4378-05	CISATRACURIUM BESYLATE	2MG/ML	SDV	10X5 ML	\$145.60	MNMULT	
	<input type="text" value="0"/>		3000908	00074-4380-10	CISATRACURIUM BESYLATE	2MG/ML	MDV	10X10 ML	\$255.44	MNMULT	
	<input type="text" value="0"/>		5316179	00074-4382-20	CISATRACURIUM BESYLATE	10MG/ML	SDV	10X20 ML	\$2,772.20	MNMULT	

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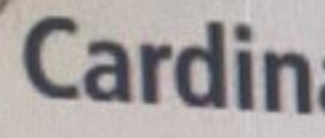
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


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## Search Results

You searched for **potassium acetate**

Total results 1

Display:  **Table** |  Images |  Full Screen

Columns





Print



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ALT	QTY	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST	COM
	<input type="text" value="0"/>	 5	5212246	51754-2001-04	POTASSIUM ACETATE	2MEQ/ML	SDV	25X20 ML	\$117.78	GOVA

No Substitutes or Alternatives were found for the product

Cardinal Health Product Alternatives or those designated as "Substitute": Therapeutic equivalency or bioequivalency is not implied and some alternative groupings may be

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## Search Results

You searched for **KETAMINE**

Total results 6

Results Per Page: 20 1

Columns Print Export .xls

ALT	QTY	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST	CONTRACT	NOTES	TRADE NAME	AMU	UOI COST	AB RATING	ABC RANKING	MFR
<input checked="" type="checkbox"/>	<input type="text" value="0"/>		3628815	00409-2053-10	KETAMINE HCL	50MG/ML	MDV	10X10 ML	\$31.30	GOVACC		KETAMINE HCL	0	\$3.1300	AP		PFIZER
<input checked="" type="checkbox"/>	<input type="text" value="0"/>		3565710	38779-1754-04	KETAMINE HCL		POWD	1X25 GM	\$45.26	GOVACC		KETAMINE HCL		\$45.2600	ZB		MEDISC
<input checked="" type="checkbox"/>	<input type="text" value="0"/>		3625860	00409-2051-05	KETAMINE HCL	100MG/ML	MDV	10X5 ML	\$66.04	MNMULT		KETAMINE HCL		\$6.6040	AP		PFIZER
<input checked="" type="checkbox"/>	<input type="text" value="0"/>		3730215	38779-1754-07	KETAMINE HCL		POWD	1X250 GM	\$234.53			KETAMINE HCL DSHP		\$234.5300	ZB		MEDISC
<input checked="" type="checkbox"/>	<input type="text" value="0"/>		4253910	38779-1754-08	KETAMINE HCL		POWD	1X500 GM	\$422.15			KETAMINE HCL DSHP		\$422.1500	ZB		MEDISC
<input checked="" type="checkbox"/>	<input type="text" value="0"/>		3802345	38779-1754-09	KETAMINE HCL		POWD	1X1000 GM	\$1,116.20			KETAMINE HCL DSHP		\$1,116.2000	ZB		MEDISC

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# ATTACHMENT 2 – SCREENSHOTS



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Pricing information is temporarily unavailable. Please check back later.

You searched for **THIOPENTAL**

Total results 53

This product(s) is ineligible to order. Review potential alternatives below by expanding or clicking VIEW

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Y	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST	CONTRACT	NOTES	TRADE NAME	AM
0	INELIG	1065820	00548-5050-00	THIOPENTAL SODIUM	500MG	SYRN	25X20 ML	\$0.00			THIOPENTAL SODIUM	
0	INELIG	1198795	00074-3329-01	THIOPENTAL SODIUM	500MG	PWVL	25X1 EA	\$0.00			PENTOTHAL	
0	INELIG	1293315	00074-6241-03	THIOPENTAL SODIUM	250MG	SYRN	25X1 ML	\$0.00			PENTOTHAL	
0	INELIG	1293398	00074-6504-01	THIOPENTAL SODIUM	5GM	KIT	25X1 EA	\$0.00			PENTOTHAL	
0	INELIG	1332808	00074-6260-01	THIOPENTAL SODIUM	2.5GM	KIT	25X1 EA	\$0.00			PENTOTHAL	
0	INELIG	1335124	00074-6420-01	THIOPENTAL SODIUM	500MG	SYRN	25X1 EA	\$0.00			PENTOTHAL	
0	INELIG	1370139	00548-5050-00	THIOPENTAL SODIUM	400MG	SYRN	25X20 ML	\$0.00			THIOPENTAL SODIUM	
0	INELIG	1374123	00548-6423-00	THIOPENTAL SODIUM	5GM	KIT	1X12 EA	\$0.00			THIOPENTAL SODIUM	
0	INELIG	1403658	00703-2580-01	THIOPENTAL SODIUM	500MG	KIT	1X1 EA	\$0.00			THIOPENTAL SODIUM	
0	INELIG	1403666	00703-2530-01	THIOPENTAL SODIUM	1GM	KIT	1X1 EA	\$0.00			THIOPENTAL SODIUM	

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## Search Results

You searched for PENTOBARBITAL

Total results 50

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ALT	QTY	STOCK STATUS	CIN	NDC/UPC	GENERIC NAME	STRENGTH	FORM	SIZE	NET COST	CONTRACT	NOTES	TRADE NAME
	<input type="text" value="0"/>	INELIG	1027838	00074-3778-05	PENTOBARBITAL SODIUM	50MG/ML	MDV	1X50 ML	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043280	00074-3120-01	PENTOBARBITAL SODIUM	30MG	CAPS	1X100 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043306	00074-3150-11	PENTOBARBITAL SODIUM	50MG	CAPS	1X100 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043314	00074-3114-01	PENTOBARBITAL SODIUM	100MG	CAPS	1X100 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043322	00074-3114-02	PENTOBARBITAL SODIUM	100MG	CAPS	1X500 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043330	00074-3114-03	PENTOBARBITAL SODIUM	100MG	CAPS	1X1000 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043348	00074-3142-01	PENTOBARBITAL	20MG/5ML	ELIX	1X473 ML	\$0.00			NEMBUTAL
	<input type="text" value="0"/>	INELIG	1043371	00074-3145-01	PENTOBARBITAL SODIUM	120MG	SUPP	1X12 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1043389	00074-3164-01	PENTOBARBITAL SODIUM	200MG	SUPP	1X12 EA	\$0.00			NEMBUTAL SODIUM
	<input type="text" value="0"/>	INELIG	1066109	00074-3148-01	PENTOBARBITAL SODIUM	60MG	SUPP	1X12 EA	\$0.00			NEMBUTAL SODIUM

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